mpt IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2972 OF 2007

Raman Kumar Gupta .. Applicant

versus

State of Maharashtra .. Respondent

...

Mr.Sanjeev P. Kadam for the applicant.

Mr.K.V. Saste APP for the State.

CORAM : D.G.KARNIK, J

DATED : 06th December 2007

P.C.:

1. Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner carries on business of import and exports in the name and style of M/s.Jaldhara Exports, Ludhiana. He obtained licence under advance licence scheme of importing of raw material without payment of duty on condition that he would convert the raw material into finished goods which would be exported. However, he did not export the finished

goods. It appears that some false documents were prepared showing export of finished goods. When the customs department had a doubt about the exports, it started investigation and found the exports were not made. One Mr.Firoz Mulla an employee of the petitioner was arrested. Premises of the petitioner were also searched and petitioner was summoned for investigation. The petitioner pleaded ignorance about bogus and fake transaction of the alleged export of goods. He pleaded that this must have been done by Firoz Mulla who was removed from service subsequently. Statement of Firoz Mulla were recorded and he stated that the false documents of exports was prepared at the instance of the petitioner who was the ultimate beneficiary. Mr.Mulla was not the beneficiary of the alleged forgery at all because the duty waiver was obtained by the petitioner who derived the benefits of waiver of duty without performing his obligation of exports.

3. The customs department has filed a complaint before the Chief Metropolitan Magistrate. The petitioner failed to respond to the summons issued in that case. The Chief Metropolitan Magistrate directed the petitioner to appear before the customs department on or before 22nd May 2007. the petitioner did not comply with the said direction and did not appear before the customs department but

instead moved an application for anticipatory bail before the learned Sessions Judge. By an order dated 5th July 2007, the learned Sessions Judge rejected the said application by a detailed and reasoned order. Even after 22nd May 2007 and even after the rejection of the bail application, the petitioner has not appeared before the customs authority nor made himself available for interrogation. He is not co-operating with the customs department for investigation. In the circumstances, petitioner is not entitled to an anticipatory bail. The application is accordingly rejected.

3. Learned APP is directed to inform this order to all concerned including the customs department.

(D.G. KARNIK, J)